



RESTRICT 2007202432

8 PGS

Zoning Case No. C14-2007-0005

RESTRICTIVE COVENANT

OWNER: RKS Texas Investments, L.P., a Texas limited partnership
ADDRESS: 601 Sonterra Boulevard, San Antonio, Texas 78258
CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.
PROPERTY: A 4.709 acre tract of land, more or less, out of the Santiago Del Valle Grant, Abstract No. 24, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR/WHM Transportation Engineering, dated January 8, 2007, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated August 30, 2007. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

10-18-07 #55

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

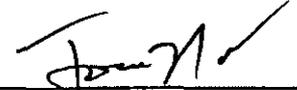
EXECUTED this the 12th day of October, 2007.

OWNER:

**RKS Texas Investments, L.P.,
a Texas limited partnership**

By 
Rick Sheldon,
Partner

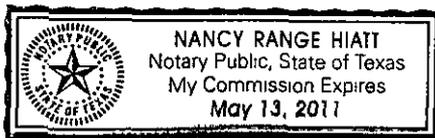
APPROVED AS TO FORM:

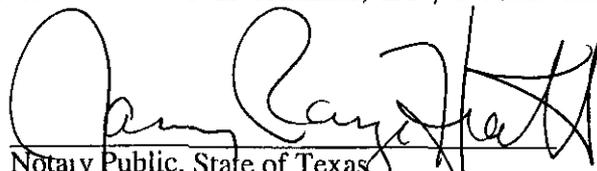

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF Bexar §

This instrument was acknowledged before me on this the 12th day of October, 2007, by Rick Sheldon, Partner, on behalf of RKS Texas Investments, L.P., a Texas limited partnership.




Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal



Professional Land Surveying, Inc.
Surveying and Mapping

EXHIBIT A

C14-07-0005

Office 512-443-1724

Fax 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**4.709 ACRES
SANTIAGO DEL VALLE GRANT
TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 4.709 ACRES (APPROX. 205,144 S.F.) IN THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24, TRAVIS COUNTY, TEXAS, BEING A REMAINDER PORTION OF A 275.015 ACRE TRACT CONVEYED TO FC PROPERTIES ONE, LTD., IN A SPECIAL WARRANTY DEED DATED MARCH 20, 1998, RECORDED IN VOLUME 13147, PAGE 1555, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 4.709 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the said 275.015 acre tract, being also in the south line of Thaxton Road Street Dedication, a subdivision of record in Volume 87, Pages 24D-25A, Plat Records of Travis County, Texas, a northerly corner of a 236.54 acre tract recorded in Document No. 2003099256, of the Official Public Records of Travis County, Texas and being the northwest corner of the 4.712 acre Save and Except Tract Three recorded in Document No. 2003099256, of the Official Public Records of Travis County, Texas, from which a 1/2" rebar found bears North 66°58'41" West, a distance of 57.47 feet;

THENCE leaving the northerly corner of the 236.54 acre tract and along the common line of Thaxton Road Street Dedication, and the 4.712 acre tract, the following two (2) courses:

1. South 66°58'41" East, a distance of 42.79 feet to a 1/2" rebar found for the beginning of a curve to the left;
2. 528.59 feet along the arc of said curve to the left, having a radius of 1,862.18 feet, and through a central angle of 16°15'49", the chord of which bears South 73°32'44" East, a distance of 526.81 feet to a 1/2" rebar with cap set in the south line of Thaxton Road Street Dedication, being also in the west right-of-way line of Panadero Drive (64' right-of-way width) as dedicated in The Bend at Nuckols Crossing, a subdivision of record in Volume 88, pages 1-2, Plat Records of Travis County, Texas, and the northeast corner of the 4.712 acre tract, for the beginning of a reverse curve to the right;

THENCE leaving the south line of Thaxton Road Street Dedication, along the common line of Panadero Drive and the 4.712 acre tract the following three courses:

1. 38.53 feet along the arc of said curve to the right, having a radius of 25.00 feet, and through a central angle of $88^{\circ}18'06''$, the chord of which bears South $37^{\circ}31'36''$ East, a distance of 34.83 feet to a 1/2" rebar with cap set;
2. South $06^{\circ}37'28''$ West, a distance of 145.61 feet to a 1/2" rebar with cap set for the beginning of a curve to the left;
3. 215.60 feet along the arc of said curve to the left, having a radius of 568.31 feet, and through a central angle of $21^{\circ}44'10''$, the chord of which bears South $04^{\circ}14'24''$ East, a distance of 214.31 feet to a 1/2" rebar found for the south corner of The Bend at Nuckols Crossing, being also a northwest corner of the Amended Plat of Sheldon 230, Section 2, Phase 1, a subdivision of record in Document No. 200400134, of the Official Public Records of Travis County, Texas, from which a 1/2" rebar found bears North $74^{\circ}44'45''$ East, a distance of 64.10 feet;

THENCE along the east line of the 4.712 acre tract, over the Amended Plat of Sheldon 230, Section 2, Phase 1, the following two (2) courses:

1. South $15^{\circ}12'04''$ East, a distance of 83.42 feet to a calculated point for the beginning of a curve to the right;
2. 31.43 feet along the arc of said curve to the right, having a radius of 468.00 feet, and through a central angle of $03^{\circ}50'53''$, the chord of which bears South $13^{\circ}16'38''$ East, a distance of 31.42 feet to a calculated point for the southeast corner of the 4.712 acre tract, being also in the Amended Plat of Sheldon 230, Section 2, Phase 1;

THENCE over the Amended Plat of Sheldon 230, Section 2, Phase 1, and along the line common to the 4.712 acre tract and Sheldon 230, Section 1, Phase 1, a subdivision of record in Document No. ,200500225, of the Official Public Records of Travis County, Texas the following three (3) courses:

1. North $80^{\circ}17'44''$ West, passing at 4.66 feet the northeast corner of Lot 7, Sheldon 230, Section 1, Phase 1, passing at 9.95 feet the northwest corner of Lot 7, and continuing for a total distance of 93.83 feet to a 1/2" rebar with cap set,
2. North $70^{\circ}27'02''$ West, a distance of 50.98 feet to a 1/2" rebar with cap set;
3. North $63^{\circ}40'40''$ West, a distance of 133.76 feet to a 1/2" rebar found for a southwest corner of the 4.712 acre tract, being also the northwest corner of Sheldon 230, Section 1, Phase 1, and in the east line of a 2.085 acre tract recorded in Document No. 2002000762, of the Official Public Records of Travis County, Texas, from which a 1/2" rebar found bears South $26^{\circ}15'53''$ West, a distance of 155.57 feet;

THENCE along the common line of the 4.712 acre tract, and the 2.085 acre tract, the

following two (2) courses:

1. North 26°20'55" East, a distance of 82.00 feet to a 1" iron pipe found;
2. North 63°41'06" West, a distance of 346.94 feet to a 1/2" rebar found for the southwest corner of the 4.712 acre tract, being also the northwest corner of the 2.085 acre tract and in the east line of the 236.54 acre tract;

THENCE along the common line of the 4.712 acre tract and the 236.54 acre tract, the following two (2) courses:

1. North 06°50'03" West, a distance of 135.18 feet to a 1/2" rebar with cap set;
2. North 11°34'31" West, a distance of 213.67 feet to the **POINT OF BEGINNING**, containing an area of 4.709 acres of land, more or less.

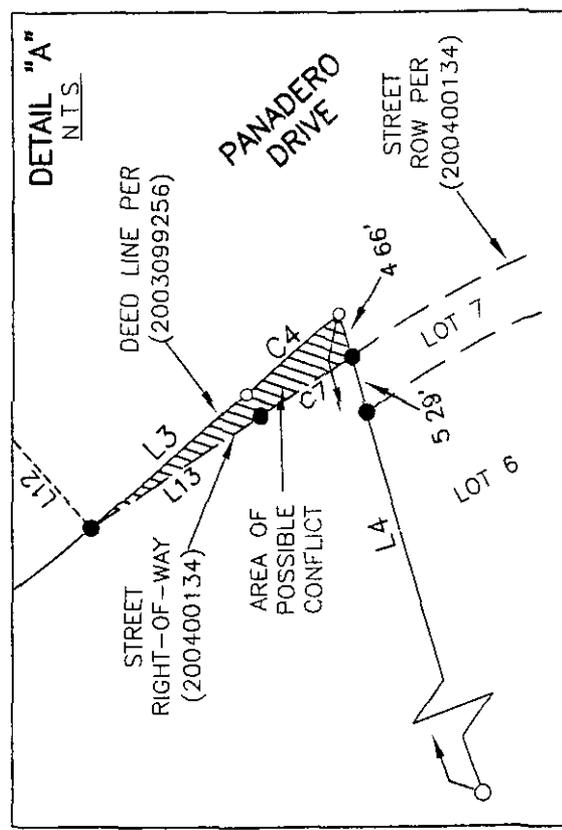
Surveyed on the ground in September 21, 2006. Bearing Basis: Grid Azimuth for Texas Central Zone, NAD 1983/93 HARN values from LCRA control network. Attachments: Drawing 040-047-Z1.


David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428

10/10/06



SKETCH TO ACCOMPANY A DESCRIPTION OF 4.709 ACRES (APPROX. 205,144 S.F.) IN THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24, TRAVIS COUNTY, TEXAS, BEING A REMAINDER PORTION OF A 275.015 ACRE TRACT CONVEYED TO FC PROPERTIES ONE, LTD., IN A SPECIAL WARRANTY DEED DATED MARCH 20, 1998, RECORDED IN VOLUME 13147, PAGE 1555, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.

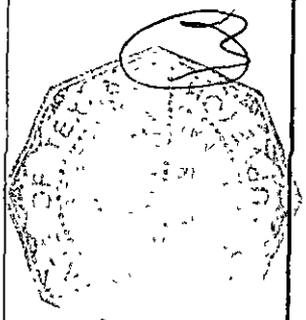


| LINE TABLE | | | |
|------------|-------------|---------|-----------------------|
| No | BEARING | LENGTH | RECORD |
| L1 | S66°58'41"E | 42.79' | (S64°29'26"E 42.59') |
| L2 | S06°37'28"W | 145.61' | (S09°11'34"W 145.52') |
| L3 | S15°12'04"E | 83.42' | (S12°32'56"E 83.42') |
| L4 | N80°17'44"W | 93.83' | (N77°44'13"W 93.72') |
| L5 | N70°27'02"W | 50.98' | (N67°53'31"W 50.98') |
| L6 | N63°40'40"W | 133.76' | (N61°07'09"W 133.76') |
| L7 | N26°20'55"E | 82.00' | (N28°52'51"E 82.24') |
| L8 | N06°50'03"W | 135.18' | (N04°14'29"W 135.18') |
| L9 | S26°15'53"W | 155.57' | (S28°52'51"W 155.55') |
| L10 | N24°18'07"E | 64.40' | (S28°52'51"W 155.55') |
| L11 | N08°22'36"E | 64.14' | |
| L12 | N74°44'45"E | 64.10' | (N77°27'05"W 64.00') |
| L13 | N13°08'11"W | 83.02' | (N10°25'04"W 83.23') |

| CURVE TABLE | | | | | | |
|-------------|-----------|----------|---------|---------|---------|-------------|
| NO | DELTA | RADIUS | TAN | ARC | CHORD | BEARING |
| C1 | 16°15'49" | 1862.18' | 266.08' | 528.59' | 526.81' | S73°32'44"E |
| C2 | 88°18'06" | 25.00' | 24.27' | 38.53' | 34.83' | S37°31'35"E |
| C3 | 21°44'10" | 568.31' | 109.11' | 215.60' | 214.31' | S04°14'24"E |
| C4 | 3°50'53" | 468.00' | 15.72' | 31.43' | 31.42' | S13°16'38"E |
| C5 | 22°54'00" | 1798.18' | 364.21' | 718.70' | 713.92' | S77°30'58"E |
| C6 | 12°30'17" | 468.00' | 51.27' | 102.14' | 101.94' | S03°01'20"E |
| C7 | 3°40'18" | 468.00' | 15.00' | 29.99' | 29.99' | N10°48'51"W |

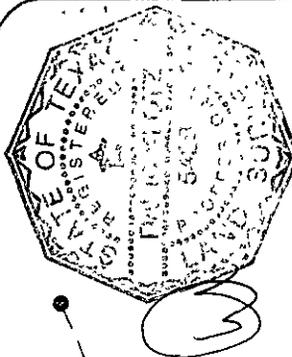
LEGEND

- 1/2" REBAR FOUND
- 1/2" REBAR WITH CAP SET
- ⊙ 1" IRON PIPE FOUND
- CALCULATED POINT



DATE OF SURVEY 9/21/06
 PLOT DATE 10/18/06
 DRAWING NO 040-047-Z1
 PROJECT NO 040-047
 DRAWN BY: SMD
 SHEET 2 OF 2

Chaparral



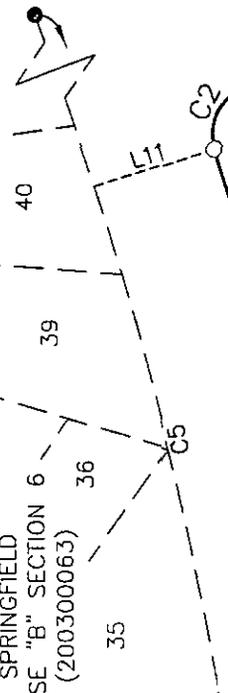
LOT 1, BLOCK J
THE BEND AT
NUCKOLS CROSSING
PHASE 2, SECTION 1
(88/1)

r=504.31

PANADERO DRIVE
(64' ROW WIDTH)
(88/1)(200400134)

AREA OF
POSSIBLE
CONFLICT

ALUMINUM ROCK DRIVE

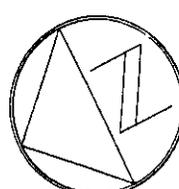


THAXTON ROAD
(ROW WIDTH VARIES)
(87/25A)

40' TEMPORARY CONST ESMT
(10838/637)

4.709 ACRES
(APPROX 205,144 SF)
REMAINDER PORTION OF
A 275 015 ACRE TRACT
FC PROPERTIES ONE, LTD
(13147/1555)

1"=100'



N63°41'06"W 346.94'
(N61°05'40"W 347.02')

2.085 ACRES
DAVID L MELLEBRUCH ET UX
(2002000762)

6.397 ACRES
CITY OF AUSTIN
(10780/904)

LOT 24, BLOCK K
AMENDED PLAT OF SHELDON 230
SECTION 2 PHASE 1
(200400134)

A PORTION OF
275 015 ACRES
FC PROPERTIES
ONE LTD
(13147/1555)

P.O.B.
57.47'

N11°34'31"W 213.67'
(N08°59'06"W 213.80')

A PORTION OF
236.54 ACRES
KB HOME LONE STAR LP
(2003099256)

BEARING BASIS GRID AZIMUTH FOR
TEXAS CENTRAL ZONE, 1983/93
HARN VALUES FROM LCRA CONTROL
NETWORK

ATTACHMENTS METES AND BOUNDS
DESCRIPTION 040-047-Z1

DATE OF SURVEY 9/21/06
PLOT DATE 10/18/06
DRAWING NO 040-047-Z1
PROJECT NO. 040-047
DRAWN BY SMD
SHEET 1 OF 2

Chaparral

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2007 Nov 05 02 36 PM 2007202432

BARTHOD \$44 00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Recorder's Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.